

Affidavit of Yolanda von Braunhut

I, YOLANDA VON BRAUNHUT, declare as follows:

1. My name is **Yolanda von Braunhut**.
2. I reside at 6200 Chapmans Landing Road, Indian Head, MD 20640-3040.
3. I maintain a post office box address at PO Box 809, Byrans Road, MD 20616-0809.
4. I am the individual named as a Plaintiff in the action entitled *Transcience Corporation & Yolanda von Braunhut (individual) v. Big Time Toys, LLC* (Index Number: 13 CV 6642) that is now currently before the Court in the Southern District of New York (**SDNY**).
5. I am the Chief Executive Officer (**CEO**) of the *Transcience Corporation*.
6. The *Transcience Corporation* is the owner of the US trademarked product named Sea-Monkeys®.
7. A long time customer of the *Transcience Corporation* named Thomas Vaccina informed me that he had happened across Sea-Monkeys® products for sale in a *Hobbytown USA* store located at 3360 Satellite Blvd., STE 14, Duluth, Georgia 30096.
8. The packaging of the Sea-Monkeys® product that he came across contained on it the words "**POUCHES AND POUCH CONTENTS MADE IN CHINA**".
9. I told Mr. Vaccina to purchase 4 items of that same Sea-Monkeys® product.
10. Mr. Vaccina purchased 4 items of the Sea-Monkeys® product "Big Show Projector" on March 28th 2014. (**see Exhibit Aa**)
11. Mr. Vaccina photographed the bottom of the box of the "Big Show Projector" showing the words "**POUCHES AND POUCH CONTENTS MADE IN CHINA**". (**see Exhibit Bb**)
12. Mr. Vaccina subsequently delivered the "Big Show Projector" items that he purchased to me.

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- 1 13. The photographs contained in **Exhibit Aa** are an accurate representation
2 of the "Big Show Projector" that I now have in my possession.
- 3 14. So far as I am aware the same product in the same packaging is still
4 available for purchase at the aforementioned *Hobbytown USA* store.
- 5 15. The Defendant *Big Time Toys, LLC* in the case that is now currently
6 before the Court had previously procured a license (that had been
7 subsequently terminated) to manufacture some of the components of the
8 Sea-Monkeys® product.
- 9 16. The Defendant *Big Time Toys, LLC* pursuant to the now terminated
10 agreement between the parties manufactured the water tank and other
11 components of the "Big Show Projector", including the packaging of the
12 product.
- 13 17. The *Transcience Corporation* was always responsible for the manufacture
14 of the pouches and pouch contents as detailed within the now terminated
15 agreement between the parties.
- 16 18. The *Transcience Corporation* has always manufactured the pouches and
17 pouch contents in the **USA**.
- 18 19. The Defendant *Big Time Toys, LLC* **NEVER** had the license, the right, the
19 permission, nor the authority to manufacture the pouches and the pouch
20 contents in China (or anywhere else for that matter) as detailed within the
21 now terminated agreement between the parties.
- 22 20. If the words "**POUCHES AND POUCH CONTENTS MADE IN CHINA**", as
23 displayed on the "Big Show Projector" items that I now have in my
24 possession are true, then the Defendant *Big Time Toys, LLC* can be
25 presumed to be illegally counterfeiting the pouches and pouch contents.
- 26 21. The words "**POUCHES AND POUCH CONTENTS MADE IN CHINA**" as
27 printed on the box are either untrue or are of a criminal nature.
- 28 22. The Defendant *Big Time Toys, LLC* has not purchased additional trade
 secreted pouches from the *Transcience Corporation* ever since the

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Defendant abruptly breached the agreement between the parties in December of 2012.

23. If the Defendant *Big Time Toys, LLC* is counterfeiting the trade secreted pouches, in total obviating of the albeit terminated agreement between the parties, it is likely that irreparable harm will be visited directly upon the Sea-Monkeys® product line.
24. The petition for a preliminary injunction as currently set before the Court had focused on the irreparable harms that are likely to be visited upon the officers of the *Transcience Corporation*.
25. Now, with this newly discovered evidence, the irreparable harm that the Defendant is causing is likely to be visited directly upon the Sea-Monkeys® product line itself.
26. The words "**POUCHES AND POUCH CONTENTS MADE IN CHINA**" as printed on the box are either a false and misleading statement made by the Defendant or are evidence of a counterfeiting operation operated by the Defendant.
27. I need the Court for the sake of the Sea-Monkeys® product line, for the sake of the *Transcience Corporation*, and for the sake of myself to remove the Defendant entirely from the business of Sea-Monkeys®.
28. If a preliminary injunction, or in the alternative, a favorable judgment on the pleadings via consolidation is not GRANTED (affording the requested immediate relief) continuing, unnecessary, unjustifiable, and profound hardship resulting in irreparable harms will be visited directly upon both *Transcience* and myself.

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I declare under penalty of perjury under the laws of the United States of America that
the foregoing to the best of my knowledge is true and correct.

Executed this 9th day of April 2014

at Sayville, New York

Yolanda von Braunhut

Yolanda Von Braunhut

4/9/14

Date

Sworn to before me this

9th day of April 2014

Barbara Bonventre

Notary Public

BARBARA BONVENTRE
Notary Public, State of New York
No. 01BO6047622
Qualified in Suffolk County
Commission Expires Sept. 5, 20 14

Signature Page

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1. I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

2. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

3. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

4. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

5. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

Date

Notary Public for Suffolk County, New York

6. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

7. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

8. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

Notary Public

BARBARA BONVENTURE
Notary Public, State of New York
No. 0180347622
Qualified in Suffolk County
Commission Expires Sept. 8, 2015

9. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

10. I declare under penalty of perjury under the oath of the State of New York that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Suffolk, New York.

EXHIBIT Aa

Sales Receipt

HOBBYTOWN USA
 3360 SATELLITE BLVD STE 14
 DULUTH, GA 30096
 (770) 418-0850
 www.hobbytownduluth.com

HOBBYTOWN USA
 3360 SATELLITE BLVD SUITE 14
 DULUTH, GA 30096
 (770) 418-0850

Merchant ID: 000051002109

Ref #: 0056

Sale

8247

DEBIT

Entry Method: Swiped

Total: \$ 118.67

03/28/14

18:40:22

Inv #: 000056

Appr Code: 004953

Apprvd: Online

Batch#: 000359

Retrieval Ref #: 408722605930

Trace Audit #: 605938

Net ID: 470

Settle Date: 0329

Customer Copy

NO RETURNS OR EXCHANGES
 ON OPENED PRODUCT

CUSTOMER:

DATE TIME SALES CLERK
 03-28-2014 17:38:28 Samyra H

ITEM Type	Qty	DESCRIPTION Selling HTU Price	Total
TYS66842		BIG SHOW PROJECTOR	
Sale	1	19.99	19.99
TYS66842		BIG SHOW PROJECTOR	
Sale	1	19.99	19.99
TYS66842		BIG SHOW PROJECTOR	
Sale	1	19.99	19.99
TYS66842		BIG SHOW PROJECTOR	
Sale	1	19.99	19.99
MPC790		TITAN ROCKET	
Sale	1	34.99 31.99	31.99
SUBTOTAL			\$111.95
TAX			\$6.72
TOTAL			\$118.67

PAYMENTS:
 DEBIT CARD

\$118.67

TOTAL PAYMENT \$118.67
 CHANGE DUE \$.00

TRANSACTION # 292407-1-169

Thank You for shopping
 at HobbyTown USA !!
 Sorry No Refunds.
 Keep this receipt for
 store credit or exchange
 on unopened packages
 within 30 days of purchase

EXHIBIT Bb



